**THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO**

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WRIT PETITION NO.16614 of 2005

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Dated: 09.08.2005

Between:

Kakani Venkateswarrao, s/o Umamaheswarrao,
r/o Bapulapadu Krishna District.

**..... PETITIONER**

AND

1 The Government of A.P., rep. by its Principal Secretary to

Government, Panchayat Raj and Rural Development,
Secretariat, Hyderabad and three others.

**....RESPONDENTS**

**THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO**

-

WRIT PETITION NO.16614 of 2005

ORDER:

This writ petition is filed seeking to declare the proceedings in Roc.No.6235/2004-A4(Pts), dated 21.06.2005 issued by respondent No.2, requesting respondent No.1 to issue orders canceling the resolution No.4, dated 19.04.2005 of respondent No.3, as illegal and arbitrary.

The case of the petitioner is that an extent of Ac.1.97 cents of land covered by RS No.244 of Epuru village is a joint property, in which petitioner is having 1/6$^{th}$ undivided share, and respondent No.4 is having 1/12$^{th}$ undivided share among other co-owners. It is stated that a joint licence was taken in the name of respondent No.4 to run cattle shandy in the said land for a period of one year commencing from 01.04.2004 to 31.03.2005. It is further stated that after expiry of said joint licence, respondent No.4 submitted an application, dated 08.04.2005 to respondent No.3 for renewal of licence in his name. As the petitioner and other co-owners objected for the same, respondent No.3 rejected the said application under resolution No.4, dated 19.04.2005. Against the said orders, respondent No.4 filed W.P.No.9449 of 2005 before this Court without adding the petitioner and other co-owners as parties to the said proceedings. Therefore, the petitioner filed an implead petition in the said writ petition. While so, respondent No.4, by suppressing the fact of filing the said writ petition, made a representation dated 16.05.2005 to respondent No.2 requesting for cancellation of resolution No.4 of respondent No.3, under which his renewal application was rejected. Meanwhile, this Court by order dated 13.06.2005 dismissed the writ petition No.9449 of 2005 filed by respondent No.4 granting liberty to avail the alternative efficacious remedy of appeal available to him against the orders impugned therein. While the matter stood thus, respondent No.2, without

having any power or authority, issued the impugned proceedings dated 21.06.2005 requesting the respondent No.1 to cancel the resolution No.4 of respondent No.3, which is illegal and arbitrary. Hence, the present writ petition has been filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development.

In the impugned proceedings dated 21.06.2005 issued by respondent No.2, it is stated that since the Panchayat Resolution was passed against to the directions of this Court and the directions of the District Panchayat Officer, West Godavari, Eluru, which comes under Contempt of Court, the said impugned proceedings came to be passed directing the 1st respondent to issue orders canceling the resolution No.4, dated 19.04.2005 of 3rd respondent. But, as rightly contended by the learned counsel for the petitioner, there is no direction by this Court to the authorities to grant licence in the name of respondent No.4. In the absence of any direction from this Court with regard to granting/renewal of licence in favour of respondent No.4, the action of the respondent No.2 in issuing the impugned proceedings by stating that rejection of renewal of licence is against the directions of this Court, is nothing but misleading but also amount to creation of an order which is not in existence. Hence, the respondent No.2 has no power or authority to issue the impugned proceedings. In the circumstances, the impugned proceedings dated 21.06.2005 of the 2nd respondent are liable to be set aside.

Accordingly, the writ petition is allowed and the impugned proceedings dated 21.06.2005 of the 2nd respondent are set aside. No order as to costs.

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**(ELIPE DHARMA RAO, J)**

Date: 09.08.2005

Nsr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki the Acting Chief Justice on this

Tuesday, the Ninth day of August, Two Thousand and Five.

……..REGISTRAR